



United States Department of the Interior



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December 23, 2013

Instruction Memorandum No. 2014-002
Expires: 09/30/2016

To: Native Allotment Adjudicators
From: Deputy State Director, Lands and Cadastral
Subject: Implementation of Substitute Parcel Program

Program Area: Native Allotment Title Recovery Program

Purpose: To provide guidance regarding identification and proper processing of Native Allotment applications which are eligible for substitute lands under 43 USC 1617(c).

Background: Approximately 230 out of the approximately 325 remaining Native Allotment applications are located on lands which have previously been conveyed to the State of Alaska. Recovery of title to these parcels is expensive and time consuming for both the BLM and the Alaska Department of Natural Resources (DNR). So far, the DNR has determined that it is not in the state's best interest to return title to the BLM, and refused to do so, in about 80 cases. Although those cases are typically referred to the Department of Justice (DOJ) for possible title litigation, the DOJ has so far declined prosecution in every case, leaving the applicants without a practical remedy.

Statutory authority exists (43 USC 1617(c)) to enable the applicant or heirs to amend their application to select a substitute parcel from other state selected but unconveyed lands. This action would eliminate the conflict and allow a more timely conveyance of the allotment.

Policy/Action: On July 28, 2013, the BLM and the DNR entered into a memorandum of Agreement to utilize the existing authorities and make approximately eight million acres of unconveyed state selections available for potential selection as substitute parcels.

1. The substitute parcel option will be limited to cases where the DNR has completed its internal process and has refused to reconvey the lands originally described in the application. Additional cases will be added as further refusals occur.

2. Once a final refusal is received, the BLM will first review the case and determine if the case is suitable for substitute lands. (This step allows us to review cases in the event the state decides to decline to reconvey in a case where the facts strongly support the application. If it appears more appropriate to litigate, that option remains available).
3. Notice is sent to the applicant and the Real Estate Service Provider (RESP), with a copy to the Bureau of Indian Affairs (BIA), with information on the case, the substitution process, and the latest map of nearby available lands.
4. The applicant, with the assistance of BIA and the RESP, will have 12 months to identify and apply for a substitute parcel. In the case of a deceased applicant, this will require unanimous agreement from all heirs. Because additional time may be required for the first group of candidates, the initial deadline may be extended to a total of 24 months. The substitute parcel process legally constitutes an amendment of the allotment application, so all requests must be in writing and unanimously approved by all heirs. If the applicant or heirs fail to agree to a substitute parcel by the deadline, the BLM will forward the case to the Office of the Regional Solicitor for referral to the DOJ without further delay.
5. In the event that an applicant or heir dies during the amendment process, the BIA or the RESP will be responsible for determining new heir(s) and obtaining necessary consents, or consenting on their behalf.
6. Before the BLM conducts field work to mark the site, etc., the Adjudication Branch will obtain written confirmation from the DNR that they will relinquish the substitute lands.
7. After DNR approval, a field exam will be requested to confirm location and check for trespasses and conflicts.
8. Following completion of the field exam, the substitute parcel will then be scheduled for survey in the most cost effective manner (not necessarily FIFO).
9. After the substitute parcel is conformed to survey, and final relinquishment is received from the DNR, a certificate of allotment will be issued to the applicant or heirs.

Timeframe: Effective Immediately.

Budget Impact: Budget impact is equivalent to other valid Allotment application amendments. Pace of implementation will be dependent upon available funding.

Manual/Handbook Sections Affected: Aguilar and Title Recovery Handbook for Native Allotments, Chapter II, Subchapter L.

Coordination: AK 940 and Field Offices.

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Signed by:
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